

ESTTA Tracking number: **ESTTA475209**

Filing date: **05/30/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	L. Perrigo Company
Granted to Date of previous extension	05/30/2012
Address	515 Eastern Avenue Allegan, MI 49010 UNITED STATES
Attorney information	H. W. REICK PRICE HENEVELD LLP 695 KENMOOR SE P O BOX 2567 GRAND RAPIDS, MI 49501 UNITED STATES ptomail@priceheneveld.com, dlozon@priceheneveld.com Phone:616-949-9610

Applicant Information

Application No	85390819	Publication date	01/31/2012
Opposition Filing Date	05/30/2012	Opposition Period Ends	05/30/2012
Applicant	AGS Labs, Inc. 4871 Sharp Street Dallas, TX 75247 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Adhesive bandages; cough drops; dietary supplement drinks for infants and children and infant formula; medicated diaper rash ointment; enema preparations; eye care products, namely, eye drops and saline solution for medical purposes; feminine hygiene products, namely, medicated douches, tampons, and feminine hygiene pads; first aid products, namely, rubbing alcohol, hydrogen peroxide for medical use, epsom salt, iodine tincture, witch hazel, and ipecac syrup for medical purposes; stool softener; medicated foot cream; lubricating petroleum jelly for medical purposes; pregnancy test strips for home use; medicated sleep aids; antacids; medicated callus removers and medicated callus pads


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	1763914	Application Date	11/15/1989
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Registration Date	04/13/1993	Foreign Priority Date	NONE
Word Mark	GOOD SENSE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 1989/06/22 First Use In Commerce: 1989/06/22 SKIN CARE LOTION; ANTIPERSPIRANT/DEODORANT AND HAIR SHAMPOO</p> <p>Class 005. First use: First Use: 1989/10/02 First Use In Commerce: 1989/10/02 ANTIEMETIC; ANTACID; ANALGESIC; ANTIHISTAMINE; MEDICATED HAIR SHAMPOO; COUGH/COLD SYRUP; DECONGESTANT; DIETARY FOOD SUPPLEMENT; LAXATIVE; [CONTACT LENS PREPARATIONS, NAMELY, STERILE SALINE SOLUTIONS]</p>		

U.S. Registration No.	3163213	Application Date	11/09/2004
Registration Date	10/24/2006	Foreign Priority Date	NONE
Word Mark	GOOD SENSE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 005. First use: First Use: 2005/06/00 First Use In Commerce: 2005/06/00 Medicated acne cleansing pads; alcohol swabs for medical use; antibacterial moist towelettes for medical use; medicated cleansing wipes; hemorrhoidal wipes with witch hazel for medical use; lice treatment preparations including bedding spray, shampoo, and combing gel egg remover for destroying lice eggs; medicated pads; medicated oatmeal bath treatment to sooth and relieve irritated skin; medicated personal cleansing washcloths; and topical antiseptic solutions</p> <p>Class 010. First use: First Use: 2006/02/00 First Use In Commerce: 2006/02/00 LICE COMBS</p>		

U.S. Registration No.	3775870	Application Date	12/30/2008
Registration Date	04/13/2010	Foreign Priority Date	NONE
Word Mark	GOOD SENSE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 021. First use: First Use: 2009/09/00 First Use In Commerce: 2009/09/00 Hair combs and brushes

U.S. Registration No.	3962760	Application Date	12/08/2009
Registration Date	05/17/2011	Foreign Priority Date	NONE
Word Mark	GOOD SENSE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2011/03/24 First Use In Commerce: 2011/03/24 Emery boards Class 008. First use: First Use: 2011/03/24 First Use In Commerce: 2011/03/24 Nail implements, namely, nail files, nail clippers, small scissors, and cuticle sticks		

U.S. Registration No.	3999237	Application Date	04/07/2010
Registration Date	07/19/2011	Foreign Priority Date	NONE
Word Mark	GOOD SENSE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 2011/03/24 First Use In Commerce: 2011/03/24 Pumice stones Class 008. First use: First Use: 2011/03/24 First Use In Commerce: 2011/03/24 Manicure and pedicure implements, namely, nail buffers; callus cutters and rasps; tweezers; eyebrow curlers; electric and non-electric eyebrow hair trimmers

Attachments	76619904#TMSN.gif (1 page)(bytes) 77641060#TMSN.jpeg (1 page)(bytes) 77888522#TMSN.jpeg (1 page)(bytes) 85007995#TMSN.jpeg (1 page)(bytes) 1689003.PDF (4 pages)(152419 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Winthrop/
Name	H. W. REICK
Date	05/30/2012

IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Applicant : AGS Labs, Inc.
Serial No. : 85-390,819
Filed : August 5, 2011
Mark : **GOOD CHOICE**
Int'l Class : 5
For : Adhesive bandages; cough drops; dietary supplement drinks for infants and children and infant formula; medicated diaper rash ointment; enema preparations; eye care products, namely, eye drops and saline solution for medical purposes; feminine hygiene products, namely, medicated douches, tampons, and feminine hygiene pads; first aid products, namely, rubbing alcohol, hydrogen peroxide for medical use, epsom salt, iodine tincture, witch hazel, and ipecac syrup for medical purposes; stool softener; medicated foot cream; lubricating petroleum jelly for medical purposes; pregnancy test strips for home use; medicated sleep aids; antacids; medicated callus removers and medicated callus pads.
Published : January 31, 2012

L. Perrigo Company,)
Opposer,)
v.)
AGS Labs, Inc.,)
Applicant.)

Opposition No. _____

Attn: TTAB
Commissioner for Trademarks
P. O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

L. Perrigo Company, a corporation of the state of Michigan, having its principal place of business at 515 Eastern Avenue, Allegan, Michigan 49010 (hereinafter referred to as "Perrigo" or "Opposer") believes it will be damaged by registration of the mark shown in the

above-identified application on the Principal Register (hereinafter referred to as “Applicant’s Mark”) by AGS Labs, Inc. (hereinafter referred to as “AGS” or “Applicant”) and hereby opposes the same.

As grounds for this opposition, Opposer, upon information and belief, alleges as follows:

1. Opposer is, and for many years has been, engaged in the manufacture and sale of over-the-counter drugs and dietary supplements and has used and/or licensed its **GOOD SENSE®** trademarks for a variety of other products which are sold throughout the United States to various retail outlets for resale.

2. In connection with this business, Opposer is the owner of and uses a family of registered **GOOD SENSE®** trademarks.

3. Opposer has been using its Trademark Registration No. 1,763,914 for **GOOD SENSE®** since at least 1989 in connection with antiemetics, antacids, analgesics, antihistamines, medicated hair shampoos, cough/cold syrups, decongestants, dietary food supplements, and laxatives in Class 5.

4. Opposer has been using its Trademark Registration No. 3,163,213 for **GOOD SENSE®** since at least 2005 in connection with medicated acne cleansing pads; alcohol swabs for medical use; antibacterial moist towelettes for medical use; medicated cleansing wipes; hemorrhoidal wipes with witch hazel for medical use; lice treatment preparations including bedding spray, shampoo, and combing gel egg remover for destroying lice eggs; medicated pads; medicated oatmeal bath treatment to sooth and relieve irritated skin; medicated personal

cleansing washcloths; and topical antiseptic solutions in Class 5, as well as lice combs in Class 10.

5. Opposer has been using its Trademark Registration No. 3,775,870 for **GOOD SENSE®** since at least 2009 in connection with hair combs and brushes in Class 21.

6. Opposer has been using its Trademark Registration No. 3,962,760 for **GOOD SENSE®** since at least 2011 in connection with emery boards in Class 3 and nail implements, namely, nail files, nail clippers, small scissors, and cuticle sticks in Class 8.

7. Opposer has been using its Trademark Registration No. 3,999,237 for **GOOD SENSE®** since at least 2011 in connection with pumice stones in Class 3 and manicure and pedicure implements, namely, nail buffers, callus cutters and rasps, tweezers, eyebrow curlers, electric and non-electric eyebrow hair trimmers in Class 8.

8. The mark **GOOD CHOICE** sought to be registered by Applicant is confusingly similar to the Opposer's **GOOD SENSE®** marks, and on information and belief, Applicant seeks to register it in connection with goods which are identical to and/or related to Opposer's goods and are offered through the same or similar channels of trade and to the same consumers as Opposer's goods.

9. Opposer believes that Applicant's alleged mark, when applied to Applicant's goods as intended, so resembles Opposer's marks as to be likely to cause confusion, to cause mistake, or to deceive, all to Opposer's irrevocable damage and injury.

WHEREFORE, Opposer prays that this Opposition be sustained, that registration of Applicant's Mark be refused, and judgment based upon *res judicata* again be entered against Applicant.

Respectfully submitted,

May 30, 2012

Date



H.W. Reick, Reg. No. 25438

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Attorneys for Opposer

CERTIFICATE OF SERVICE

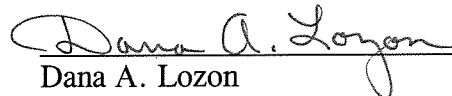
I hereby certify that a copy of the foregoing Notice of Opposition was served on counsel for AGS Labs, Inc. by mailing, first class mail, postage prepaid to:

Mr. Christopher J. Day
Law Office of Christopher Day
9977 North 90th Street, Suite 155
Scottsdale, AZ 85258

this 30th day of May, 2012.

May 30, 2012

Date



Dana A. Lozon